

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BILLY RIVERA,

Plaintiff,

— against —

KATIE BALOY, DANIEL WALTER, EARL
JACOBS, PAUL HOLLAND, BRETT REED, and
JOHN/JANE DOES 1-25,

Defendants.

Case No. 23-CV-4326

COMPLAINT

JURY TRIAL DEMANDED

NATURE OF THE ACTION

1. Plaintiff brings this action under 42 U.S.C. §§ 1983 for violations of his constitutional rights and for torts under New York State law.
2. This is an action arising out of a brutal and baseless assault on Billy Rivera by numerous New York State corrections officers at Sullivan Correctional Facility in violation of his Eighth Amendment rights.
3. Mr. Rivera has permanent hearing damage and jaw damage as a result of the assault.

JURISDICTION AND VENUE

4. This action arises under 42 U.S.C. §§ 1983 and 1988 in addition to the laws of the State of New York.
5. Jurisdiction lies in this Court over claims against employees of the New York State Department of Corrections and Community Supervision under its federal question and civil rights jurisdiction, 28 U.S.C. §§ 1331 and 1343.

6. Venue is proper in this Court under 28 U.S.C. § 1391 because Defendants claims arose within the Southern District of New York.

PARTIES

7. Plaintiff Billy Rivera is a resident of New York and is currently incarcerated at Great Meadow Facility.

8. Defendant Katie Beloy is a New York State Corrections Sergeant.

9. Defendant Daniel Walter is a New York State Corrections Officer.

10. Defendant Earl Jacobs is a New York State Corrections Officer.

11. Defendant Paul Holland is a New York State Corrections Officer.

12. Defendant Brett Reed is a New York State Corrections Officer

GENERAL ALLEGATIONS

13. Plaintiff was an inmate at Sullivan Correctional Facility.

14. On July 7, 2022, he experienced chest pain and needed to go to the medical office.

15. When he went to the medical office, the officer who was supervising him attempted to force Mr. Rivera's head towards his crotch.

16. When Mr. Rivera moved his head away, he was pepper sprayed and assaulted violently by the Defendant Officers.

17. Mr. Rivera's jaw was dislocated and as a result of the assault, he suffered permanent hearing loss.

18. Officers covered up the assault at Mr. Rivera's disciplinary hearing arising out of the incident.

19. The officers made no mention of the force that dislocated Mr. Rivera's jaw. He now requires significant treatment on the jaw.

20. Video of the incident was suppressed from him but exists.

21. Mr. Rivera fully grieved the incident in satisfaction of the PLRA.

FIRST CAUSE OF ACTION

Eighth Amendment
Cruel and Unusual Punishment
(Against Correction Officer Defendants)

22. Mr. Rivera repeats and realleges the foregoing paragraphs and incorporates them by reference as if fully set forth herein.

23. Defendants, individually and in concert, and acting under color of state law, deprived Mr. Rivera of his rights under the Eighth Amendments to the United States Constitution to be free from cruel and unusual punishment.

24. Defendants beat Mr. Rivera without justification, after he was detained.

25. Defendants deprived Mr. Rivera of his rights intentionally, knowingly, willfully, and/or recklessly.

26. As a direct and proximate result of this unlawful conduct, Mr. Rivera sustained the damages alleged herein.

WHEREFORE, Plaintiff Billy Rivera demands judgment against the
above-captioned Defendants as follows:

- a. For compensatory damages, jointly and severally, in an amount to be determined at trial, but not less than one million dollars;
- b. For punitive damages, jointly and severally, in an amount to be determined at trial;
- c. For reasonable attorneys' fees, costs, and disbursements, under 42 U.S.C. § 1988 and other applicable laws;
- d. For pre- and post-judgment interest as allowed by law; and
- e. For such other relief as this Court deems just and proper.

Dated: New York, New York
May 24, 2023

WERTHEIMER LLC

By: 

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